

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)

An Allocation of Spectrum for the)
Private Mobile Radio Services)

RM- 9267

RECEIVED

JUL 16 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Chief, Office of Engineering and Technology

Reply Comments of
USMSS, Inc.

USMSS, Inc. ("USMSS"), pursuant to section 1.405 of the Commission's rules¹ and the *Order* released June 11, 1998,² and in response to the comments filed in response to the *Public Notice* released April 30, 1998,³ hereby respectfully submits these reply comments to the above captioned petition for rule making.⁴

I. Statement of Interest

1. USMSS is a nationwide association of independent Motorola Service Stations. USMSS member companies provide a full range of communications equipment, infrastructure, and services to every conceivable class of business and industry across the country. In addition to providing a nationwide service support network, USMSS is

¹ See 47 C.F.R. § 1.405.

² *Order Granting Motion to Extend Reply Comment Date*, DA 98-1103, released June 11, 1998.

³ *Public Notice*, Office of Public Affairs Reference Operations Division Petitions for Rulemaking Filed, Report No. 2272, released April 30, 1998.

⁴ *Petition for Rule Making Submitted by the Land Mobile Communications Council*, In the Matter of An Allocation of Spectrum for the Private Mobile Radio Services, RM-9267, filed April 22, 1998 ("*Petition*").

No. of Copies rec'd
List ABCDE

219

committed to providing a voice in the regulatory and legislative process to its member's constituency of private wireless licensees. Accordingly, USMSS is pleased to have this opportunity to express its support for the Land Mobile Communications Council ("LMCC") petition for an allocation of spectrum for the private land mobile services.

II. The opposition of the amateur radio community to the identification of the 420-450 MHz band is irrelevant to the need for additional spectrum for Private Wireless Applications.

2. The case for the need for new spectrum for the private wireless industry is well supported in the LMCC petition, notwithstanding the opposition of the amateur radio community to the selection of the 420-450 MHz band. The community of amateur radio enthusiasts has -- understandably -- expressed its opposition to any reallocation of spectrum that would adversely impact their enjoyment of the radio spectrum.⁵ However, it should be recognized that the fierce competition among various user groups for limited bands of spectrum provides support for the underlying theme of the petition. Specifically, that there is a drastic shortage of spectrum available for any use other than subscriber-based commercial services.

3. The LMCC petition details this need for additional spectrum in a number of important ways. First, the petition includes a detailed analysis of the spectrum

⁵ USMSS notes that a very large number of comments were filed in this proceeding by amateur radio enthusiasts. Because these comments are all substantively similar to each other, USMSS will not reference them individually here.

requirements of the private wireless community over the next 13 years.⁶ This analysis was based on the technology factors used in the PSWAC report and modified for non-public safety conditions. Because the Commission has accepted this analysis for the purpose of granting additional allocations to the public safety community, it should be able to quickly assess the need for additional allocations for the private wireless community.

4. Second, the petition includes a review of the availability of frequencies in existing private allocations.⁷ This review revealed that in the 470-512, 800, and 900 MHz bands there are no frequencies available in the top urban markets nationwide. From USMSS' perspective, there can be no clearer evidence of the need for additional spectrum.

5. Third, the petition highlights the need for additional spectrum for advanced technologies and applications.⁸ As dealers of private wireless equipment and infrastructure, USMSS members are constantly working to find innovative technological solutions to their customer's communications needs. And new technologies, such as high-speed data transmission, slow scan video, and Global Positioning Satellite integration, promise huge efficiency and safety benefits across the economy. However, without adequate spectrum for system deployment, these benefits will go unrealized.

III. "Refarming" will provide limited spectrum relief, and only over time.

⁶ Petition at Appendix E.

⁷ *Id* at Appendix B.

⁸ *Id* at 16-18; Appendix D.

6. While the comments of the individual members of the amateur radio community focus on the possibility of a reallocation of the 420-450 MHz band, the comments of the American Radio Relay League, Inc. ("ARRL") question the need for additional spectrum for private wireless applications.⁹

7. In its comments, ARRL reasons that because the Commission has instituted the "refarming" proceeding¹⁰ -- which promises increased spectrum efficiency in certain bands below 800 MHz -- it is impossible to exactly quantify the spectrum needs of the private wireless community. Based on this observation, ARRL makes the leap of logic that no additional spectrum is required for private wireless services.¹¹ USMSS disagrees.

8. It is not in dispute that the "refarming" proceeding offers opportunities for the deployment of new spectrally-efficient systems in some of the most heavily congested private wireless spectrum bands. What is in question, however, is how long it will take for this relief to be realized and to what extent this relief will satisfy the desperate need for additional spectrum.

9. USMSS member organizations are at "ground zero" of the "refarming" implementation effort. As dealers of narrowband equipment, and in some cases as managers of shared private carrier systems, USMSS members have been struggling to realize the promise of "refarming." Because of the need to protect incumbent systems,

⁹ Comments of the American Radio Relay League, Incorporated in Response to Petition for Rule Making, filed June 1, 1998 (ARRL Comments).

¹⁰ PR Docket 92-235.

¹¹ ARRL comments at 9.

interference issues have effectively precluded the deployment of narrowband systems in the most heavily congested areas of the country. As a result, major gains in spectrum efficiency will not be realized until a nationwide shift to narrowband equipment takes place. The LMCC petition predicts -- and USMSS affirms -- that such a transition is unlikely to occur before 2005.¹² In the meantime, the drastic spectrum crisis that prompted the "refarming" proceeding continues unabated.

10. Additionally, the "refarming" proceeding only addresses private wireless allocations below 800 MHz. As stated above -- and highlighted in the LMCC petition -- 800 and 900 MHz allocations are vital to the private wireless community, and fully occupied in most regions of the country. Nothing in the "refarming" proceeding will provide relief for the spectrum shortage in these bands. ARRL's comments notwithstanding, the LMCC petition has adequately demonstrated the critical need for additional spectrum allocations for private wireless systems, and should be acted on by the Commission expeditiously.

IV. Private Wireless Systems play a critical role in American commerce.

11. Private land mobile radio systems serve a great variety of industrial, business, government, and other needs that common carriers and other commercial radio service providers cannot fulfill. Private radio systems contribute significantly to the safe and efficient operation of farms; railroads; utilities; petroleum exploration, production and refining operations; the trucking and land transportation industry; the timber industry; and many other industrial activities. In short, nearly every segment of the American economy

¹² Petition at Appendix C.

benefits from the safety and efficiency that private wireless systems provide.

12. However, as the LMCC petition demonstrates, recent spectrum management policies have contributed to an extreme shortage of spectrum for the private wireless services. As a result, businesses are unable to expand and compete effectively; new efficiency enhancing systems cannot be deployed; and workers are placed at risk unnecessarily.

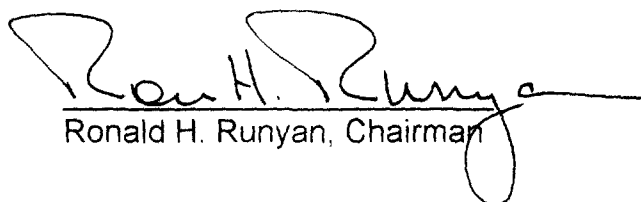
V. Conclusion

13. USMSS believes that the LMCC petition presents the Commission with a perfect opportunity to address current problems and future needs facing the private wireless industry. Private wireless systems provide benefits across the American economy in a way that is incalculable. From the protection of life, health, and property, to the efficient production of goods and services, private wireless systems play a critical role. Accordingly, USMSS urges the Commission to commence a rule making proceeding for the allocation of new spectrum for these vital private wireless systems.

Respectfully Submitted,

USMSS, Inc.

1440 South Isabella Road
Mount Pleasant, Michigan 48858



Ronald H. Runyan, Chairman

Date: July 16, 1998

CERTIFICATE OF SERVICE

I, Barbara J. Levermann, do hereby certify that on the 16th day of July 1998, I forwarded to the parties listed below a copy of the foregoing Reply Comments of USMSS, Inc., by first-class mail, postage pre-paid:

Ari Fitzgerald, Esq.
Legal Advisor
Office of Chairman William E. Kennard
1919 M Street, N.W., Room 814
Washington, DC 20554

David R. Siddall, Esq.
Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, DC 20554

Paul E. Misener, Esq.
Senior Legal Advisor
Office of Commissioner Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, DC 20554

Peter A. Tenhula, Esq.
Legal Advisor
Office of Commissioner Powell
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, DC 20554

Karen L. Gulick, Esq.
Legal Advisor
Office of Commissioner Tristani
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, DC 20554

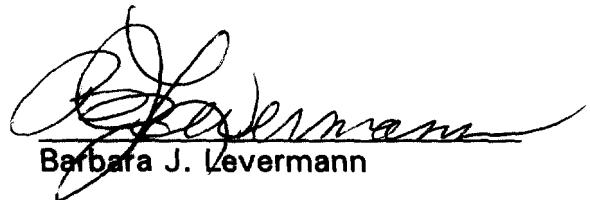
Daniel B. Phythyon, Esq.
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, DC 20554

D'Wana Terry, Esq.
Chief, Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8010
Washington, DC 20554

Mr. Dale N. Hatfield
Chief, Office of Engineering & Technology
Federal Communications Commission
2000 M Street N.W., Room 480
Washington, DC 20554

Christopher D. Imlay, Esq.
Counsel to ARRL
Booth, Freret, Imlay & Tepper, P.C.
5101 Wisconsin Avenue, N.W., Suite 307
Washington, DC 20016-4120

Kathy D. Smith, Esq.
Acting Chief Counsel
United States Department of Commerce
National Telecommunications & Information Administration
Washington, DC 20230



Barbara J. Levermann